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ARIZONA CORPORATION COMMISSION

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Docket Control
Arizona Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007

RE: In the matter of possible modifications to the Arizona Corporation Commission's Energy Rules (Docket No. RU-00000A-18-0284)

My Fellow Commissioners:

On May 11, 2021, Commissioner Sandra Kennedy filed a letter requesting the Commission "reconsider" the Energy Rules "as is."

In my opinion, adopting the Energy Rules "as-is" means handing a blank check to utilities at the expense of ratepayers, rewarding special interests for the undue influence they exerted on the Commission last year, and ignoring basic procedural and legal defects, which put the Energy Rules at risk.

Let me make this perfectly clear. While I appreciate that someone from the prevailing side may be willing to negotiate and reach a compromise with their fellow commissioners, Commissioner Kennedy's letter does not represent such an effort: first, her letter is no compromise from her; and second, Commissioner Kennedy is clearly signaling that her vote has not changed.

When we initially voted last November, it was not the final say. We knew the rules would need to be modified further and that we would have to clarify the details at a later meeting. Stakeholders knew that there were obvious substantive omissions included in the rules. Most importantly, we were also promised a report on the Energy Rules' financial impact on ratepayers that we never received.

I cannot in good conscience, support an energy mandate in which we do not know the financial impact to ratepayers. We need clear protections in place to balance the long-term interests of sustainability with the short-term interests of affordability and reliability for ratepayers.

I find it ironic that stakeholders who have been hyper critical of utilities in the past due to massive overbuilding, now seem to have no problem giving these same utilities a blank check to overbuild in the name of "clean energy," which will ultimately be paid for Arizona families and businesses.

After hearing for years from stakeholders that this Commission needed to move forward with cleaner energy—and finally earning the support of more traditionally conservative commissioners—that support was not good enough. Many of these same stakeholders balked at the opportunity to finalize the Energy Rules as supported by such commissioners and simply did not engage.

The vote of the Commission on May 5, 2021, was disappointing because I support 100 percent zero-carbon energy by 2050, as long as the method to attain this objective employs the principles of competition, innovation, and market incentives rather than surcharges and subsidies. Most of all, I support Energy Rules that include protections for ratepayers that balance the economic impacts of the objective with the interests of affordability and reliability.

The final vote on May 5 was also disappointing because the new IRP and all-source RFP processes, which were in my opinion vitally important components of the Energy Rules, also failed. Those provisions provide clear ratepayer protections and must move forward, regardless of where we end up in the broader Energy Rules discussion.

Our state will gain clear benefits when we move forward with a transparent, thoughtful, and clearly defined comprehensive Energy Rules package. As your Chair, I believe every option should be exhausted before the Energy Rules are deemed terminated by operation of law on May 22, 2021.

However, in light of the fact that no other commissioner has put forward a serious alternative that moves us toward 100 percent zero-carbon energy without saddling the costs on the backs of ratepayers--I stand by my decision to change the “mandates” to “goals.”

I would be happy to place on an agenda and consider all good faith requests for negotiation and compromise that are filed openly and transparently in the docket. But, until we receive such a request, the Energy Rules, as they stand today, are “dead.”

If we receive such confirmation through letters to the docket that other commissioners are willing to come to the table and discuss the various issues that were debated at the last Open Meeting, then I am willing to call an Emergency Special Open Meeting on Wednesday, May 19, 2021.

However, we need to know that commissioners are willing to negotiate and compromise, so the Commission will not simply repeat the outcome that occurred at the last open meeting.

Therefore, I would ask that any letter to the docket clearly identify the amendments that were proposed and discussed at the last Open Meeting that the commissioner is willing to support--or propose new amendments that help us find a solution that is acceptable for all sides--before the 120-day timeclock expires on May 22.

I also ask that any such letter be filed in the docket by close of business Monday, May 17, 2021, so commissioners have sufficient time to review and consider such letters prior to the 24-hour notice deadline required by Arizona Open Meeting Law.

Having a public indication of which amendments commissioners will support or propose, prior to the proposed Emergency Special Open Meeting on May 19, will help to greatly expedite the meeting. As for me, I support the following or substantially similar amendments that were discussed at the Commission's last Open Meeting:

- Olson Amendment #4 adopting 100% clean energy and interim targets as goals.
- O'Connor Amendment #1 requiring a least-cost resource portfolio be conducted.
- Márquez Peterson Amendment #2 fixing the rate recovery mechanism for DSRs.

I would also entertain any amendment that ensures that any additional test beyond "prudence" (i.e., "cost effective," "ratepayer impact measure," "total societal cost," etc.) that applies to Demand-Side Resources is also applied equally and at the same level to Supply-Side Resources, or else removes the test.

In addition to my own amendments, I would also support the following that have been requested or proposed:

- O'Connor Amendment #2 increasing the EE goal from 1.3% to 1.5%.
- Western Resource Advocates Exception #1 fixing obvious substantive omissions.
- Western Resource Advocates Exception #2 addressing the ratemaking authority.

Furthermore, after hearing concerns raised by some commissioners that goals would not provide adequate accountability to drive action by the utilities, I am prepared to offer the following amendment, which will provide a market-based approach to drive utility action, while reducing the cost of capital for ratepayers and therefore save Arizona families in the long-run:

- Márquez Peterson Amendment #4 (to be filed) adopting a performance incentive mechanism ("PIM") that allows utilities to seek a positive fair value rate of return ("FVROR") adjustment in a rate case based on the utility's performance and future capital expenditures that are reasonable and necessary to achieve the clean energy goals. However, the PIM works both ways, allowing the Commission to grant a negative FVROR adjustment to reflect the reduction in risk associated with a utility's decision not to move forward with the goals.

Sincerely,



Lea Márquez Peterson
Chairwoman

